

AMENDED IN SENATE JUNE 10, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2144

Introduced by Assembly Member Gilmore

February 18, 2010

An act to amend Sections 1803.5, 1808.7, 15200, 15300, 15302, 15306, 15308, 15311, 15311.1, 15312, 22526, and 41501 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2144, as amended, Gilmore. Commercial motor vehicles: driver compliance.

(1) Existing law authorizes a court to order a person issued a notice to appear for a traffic violation to attend a traffic violator school licensed under certain provisions of the Vehicle Code, in lieu of adjudicating the traffic offense, and with the consent of the defendant, or after conviction of a traffic offense. A court may order a continuance against a person who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction. After that attendance, the court may dismiss the complaint and the record of the Department of Motor Vehicles relating to this proceeding and dismissal of the complaint is confidential.

This bill would delete all references to “complaint” and instead substitute a “traffic violator school conviction” for dismissal of the complaint and would provide that the department’s record of a traffic

violation school conviction is not confidential if either of 2 conditions applies.

(2) Existing law declares the intent of the Legislature to adopt those standards required of drivers by the Federal Highway Administration of the Department of Transportation, as set forth in the Commercial Motor Vehicle Safety Act of 1986 and to reduce or prevent commercial motor vehicle accidents, fatalities, and injuries by permitting drivers to hold only one license, disqualifying drivers for certain criminal offenses and serious traffic violations, and strengthening licensing and testing standards.

Existing law prohibits a driver of a commercial motor vehicle from operating a commercial motor vehicle for a period of one year if the driver is convicted of a first violation of, or for the rest of his or her life if convicted of more than one violation of, specified offenses.

This bill would update references to federal law and make technical, nonsubstantive changes to these provisions.

(3) Existing law prohibits a driver from operating a commercial motor vehicle for a period of 90 days, 180 days, one year, or 3 years if the person is convicted of a specified violation of an out-of-service order issued by an authorized employee of the Department of the California Highway Patrol or by a uniformed peace officer. A violation of these provisions is a crime.

This bill would increase the disqualification period of 90 days to 180 days, the 180-day period to 2 years, and the one-year period to 2 years. The bill would also expand this prohibition to include out-of-service orders issued by the Secretary of the United States Department of Transportation or a peace officer or commercial vehicle inspector of any state, any province of Canada, the federal government of the United States, or Mexico. By expanding the scope of an existing crime, the bill would create a state-mandated local program.

(4) Existing law prohibits a driver from operating a commercial vehicle for a period of 60 days or 120 days if the driver is convicted of a serious traffic violation involving a noncommercial motor vehicle resulting in the revocation, cancellation, or suspension of the driver's license and the offense occurs within 3 years of a separate offense of a serious traffic violation or within 3 years of 2 or more separate offenses of serious traffic violations, respectively, that resulted in convictions.

This bill would eliminate the requirement that the conviction of the offense resulted in the revocation, cancellation, or suspension of the driver's license.

~~(4)–~~

(5) Existing law provides that a driver who is convicted of violating an out-of-service order is subject to a civil penalty of not less than \$1,100 nor more than \$2,750. Existing law also provides that an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order is, upon conviction, subject to a civil penalty of not less than \$2,750 nor more than \$11,000.

This bill would increase the penalty for the driver to not less than \$2,500 for a first conviction and to \$5,000 for a second or subsequent conviction. The bill would increase the upper limit of the penalty for an employer to not more than \$25,000.

~~(5)–~~

(6) Existing law prohibits a driver of a vehicle from entering a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle driven or there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

This bill would make technical, substantive changes in the organization of these provisions and make a conforming change to a related provision.

~~(6)–~~

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1803.5 of the Vehicle Code is amended
2 to read:

3 1803.5. In accordance with Section 41501 or 42005, when a
4 person who receives a notice to appear at a court or board
5 proceeding for a violation of any statute relating to the safe
6 operation of vehicles is granted a continuance of the proceeding

1 in consideration for attendance at a school for traffic violators, a
2 licensed driving school, or any other court-approved program of
3 driving instruction, which results in a traffic violator school
4 conviction in consideration for that attendance, the clerk of a court
5 or hearing officer shall prepare an abstract of the record of the
6 court or board proceeding, certify the abstract to be true and correct,
7 and cause the abstract to be forwarded to the department at its
8 office at Sacramento within 10 days after the traffic violator school
9 conviction is issued.

10 SEC. 2. Section 1808.7 of the Vehicle Code is amended to
11 read:

12 1808.7. (a) The record of the department relating to the first
13 proceeding and traffic violator school conviction under Section
14 1803.5 in any 18-month period for participation by a person in a
15 licensed school for traffic violators, a licensed driving school, or
16 any other court-approved program of driving instruction, is
17 confidential, shall not be disclosed to any person, except a court,
18 and shall be used only for statistical purposes by the department.

19 (b) The record under subdivision (a) is not confidential if either
20 of the following applies:

21 (1) The person holds a ~~Class A, Class B, or commercial Class~~
22 *class A, class B, or commercial class C* driver's license.

23 (2) The person is operating a commercial motor vehicle as
24 defined in subdivision (b) of Section 15210.

25 SEC. 3. Section 15200 of the Vehicle Code is amended to read:

26 15200. It is the intent of the Legislature, in enacting this
27 chapter, to adopt those standards required of drivers by the Federal
28 Motor Carrier Safety Administration of the United States
29 Department of Transportation, as set forth in the federal Motor
30 Carrier Safety Improvement Act of 1999 (Public Law 106-159)
31 and to reduce or prevent commercial motor vehicle accidents,
32 fatalities, and injuries by permitting drivers to hold only one
33 license, disqualifying drivers for certain criminal offenses and
34 serious traffic violations, and strengthening licensing and testing
35 standards. This act is a remedial law and shall be liberally construed
36 to promote the public health, safety and welfare. To the extent that
37 this chapter conflicts with general driver licensing provisions, this
38 chapter shall prevail. Where this chapter is silent, the general driver
39 licensing provisions shall apply. It is the further intent of the
40 Legislature that this program be fee supported, and that the

1 department fully recoup its costs within four years of the program's
2 enactment.

3 SEC. 4. Section 15300 of the Vehicle Code is amended to read:

4 15300. (a) A driver shall not operate a commercial motor
5 vehicle for a period of one year if the driver is convicted of a first
6 violation of any of the following:

7 (1) Subdivision (a), (b), or (c) of Section 23152 while operating
8 a motor vehicle.

9 (2) Subdivision (d) of Section 23152.

10 (3) Subdivision (a) or (b) of Section 23153 while operating a
11 motor vehicle.

12 (4) Subdivision (d) of Section 23153.

13 (5) Leaving the scene of an accident involving a motor vehicle
14 operated by the driver.

15 (6) Using a motor vehicle to commit a felony, other than a felony
16 described in Section 15304.

17 (7) Driving a commercial motor vehicle when the driver's
18 commercial driver's license is revoked, suspended, or canceled
19 based on the driver's operation of a commercial motor vehicle or
20 when the driver is disqualified from operating a commercial motor
21 vehicle based on the driver's operation of a commercial motor
22 vehicle.

23 (8) Causing a fatality involving conduct defined pursuant to
24 Section 191.5 of the Penal Code or subdivision (c) of Section 192
25 of the Penal Code.

26 (9) While operating a motor vehicle, refuses to submit to, or
27 fails to complete, a chemical test or tests in violation of Section
28 23612.

29 (10) A violation of Section 2800.1, 2800.2, or 2800.3 that
30 involves a commercial motor vehicle.

31 (b) If a violation listed in subdivision (a), or a violation listed
32 in paragraph (2) of subdivision (a) of Section 13350 or Section
33 13352 or 13357, occurred while transporting a hazardous material,
34 the period specified in subdivision (a) shall be three years.

35 SEC. 5. Section 15302 of the Vehicle Code is amended to read:

36 15302. A driver shall not operate a commercial motor vehicle
37 for the rest of his or her life if convicted of more than one violation
38 of any of the following:

39 (a) Subdivision (a), (b), or (c) of Section 23152 while operating
40 a motor vehicle.

1 (b) Subdivision (d) of Section 23152.

2 (c) Subdivision (a) or (b) of Section 23153 while operating a
3 motor vehicle.

4 (d) Subdivision (d) of Section 23153.

5 (e) Leaving the scene of an accident involving a motor vehicle
6 operated by the driver.

7 (f) Using a motor vehicle to commit a felony, other than a felony
8 described in Section 15304.

9 (g) Driving a commercial motor vehicle when the driver's
10 commercial driver's license is revoked, suspended, or canceled
11 based on the driver's operation of a commercial motor vehicle or
12 when the driver is disqualified from operating a commercial motor
13 vehicle based on the driver's operation of a commercial motor
14 vehicle.

15 (h) Causing a fatality involving conduct defined pursuant to
16 Section 191.5 of the Penal Code or in subdivision (c) of Section
17 192 of the Penal Code.

18 (i) While operating a motor vehicle, refuses to submit to, or
19 fails to complete, a chemical test or tests in violation of Section
20 23612.

21 (j) A violation of Section 2800.1, 2800.2, or 2800.3 that involves
22 a commercial motor vehicle.

23 (k) Any combination of the above violations or a violation listed
24 in paragraph (2) of subdivision (a) of Section 13350 or Section
25 13352 or 13357 that occurred while transporting a hazardous
26 material.

27 *SEC. 6. Section 15306 of the Vehicle Code is amended to read:*

28 15306. ~~(a)~~ A driver ~~may~~ *shall* not operate a commercial motor
29 vehicle for a period of 60 days if the person is convicted of a
30 serious traffic violation involving a commercial *or a*
31 *noncommercial* motor vehicle and the offense occurred within
32 three years of a separate offense of a serious traffic violation that
33 resulted in a conviction.

34 ~~(b) A driver may not operate a commercial motor vehicle for a~~
35 ~~period of 60 days when the person is convicted of a serious traffic~~
36 ~~violation involving a noncommercial motor vehicle, if the~~
37 ~~conviction for the offense resulted in the revocation, cancellation,~~
38 ~~or suspension of the driver's license, and the offense occurred~~
39 ~~within three years of a separate offense of a serious traffic violation~~
40 ~~that resulted in a conviction.~~

1 ~~(e) This section shall become operative on September 20, 2005.~~

2 *SEC. 7. Section 15308 of the Vehicle Code is amended to read:*

3 15308. (a) A driver ~~may~~ shall not operate a commercial motor
4 vehicle for a period of 120 days if the person is convicted of a
5 serious traffic violation involving a commercial *or noncommercial*
6 motor vehicle and the offense occurred within three years of two
7 or more separate offenses of serious traffic violations that resulted
8 in convictions.

9 ~~(b) A driver may not operate a commercial motor vehicle for a~~
10 ~~period of 120 days when the person is convicted of a serious traffic~~
11 ~~violation involving a noncommercial motor vehicle, if the~~
12 ~~conviction for the offense resulted in the revocation, cancellation,~~
13 ~~or suspension of the driver's license, and the offense occurred~~
14 ~~within three years of two or more separate offenses of serious~~
15 ~~traffic violations that resulted in convictions.~~

16 ~~(e) This section shall become operative on September 20, 2005.~~

17 *(b) Notwithstanding Section 13366.5, the time period under*
18 *subdivision (a) shall not commence until all existing suspensions*
19 *or revocations of the commercial driving privilege have ended.*

20 ~~SEC. 6:~~

21 *SEC. 8. Section 15311 of the Vehicle Code is amended to read:*

22 15311. (a) A driver shall not operate a commercial motor
23 vehicle for a period of 180 days if the person is convicted of a first
24 violation of an out-of-service order under subdivision (b), (c), or
25 (d) of Section 2800.

26 (b) A driver shall not operate a commercial motor vehicle for
27 a period of two years if the person is convicted of violating an
28 out-of-service order under subdivision (b), (c), or (d) of Section
29 2800 while transporting hazardous materials required to be
30 placarded or while operating a vehicle designed to transport 16 or
31 more passengers, including the driver.

32 (c) A driver shall not operate a commercial motor vehicle for a
33 period of two years if the person is convicted of a second violation
34 of an out-of-service order under subdivision (b), (c), or (d) of
35 Section 2800 during any 10-year period, arising from separate
36 incidents.

37 (d) A driver shall not operate a commercial motor vehicle for
38 a period of three years if the person is convicted of a second
39 violation of an out-of-service order under subdivision (b), (c), or
40 (d) of Section 2800 while transporting hazardous materials that

1 are required to be placarded or while operating a vehicle designed
2 to transport 16 or more passengers, including the driver.

3 (e) In addition to the disqualification period required in
4 subdivision (a), (b), (c), or (d), a driver who is convicted of
5 violating an out-of-service order under subdivision (b) of Section
6 2800 is subject to a civil penalty of not less than two thousand five
7 hundred dollars (\$2,500) for a first conviction, and a civil penalty
8 of five thousand dollars (\$5,000) for a second or subsequent
9 conviction.

10 (f) A driver shall not operate a commercial motor vehicle for a
11 period of three years if the person is convicted of a third or
12 subsequent violation of an out-of-service order under subdivision
13 (b), (c), or (d) of Section 2800 during any 10-year period, arising
14 from separate incidents.

15 ~~SEC. 7.~~

16 *SEC. 9.* Section 15311.1 of the Vehicle Code is amended to
17 read:

18 15311.1. An employer that knowingly allows or requires an
19 employee to operate a commercial motor vehicle in violation of
20 an out-of-service order is, upon conviction, subject to a civil
21 penalty of not less than two thousand seven hundred fifty dollars
22 (\$2,750) nor more than twenty-five thousand dollars (\$25,000).

23 ~~SEC. 8.~~

24 *SEC. 10.* Section 15312 of the Vehicle Code is amended to
25 read:

26 15312. A driver may not operate a commercial motor vehicle
27 for the following periods:

28 (a) Not less than 60 days if that person is convicted of a violation
29 of subdivision (a) of Section 2800, or Section 21462, 22451, or
30 22452, or subdivision (c) or (d) of Section 22526, involving a
31 commercial motor vehicle and the violation occurred at a
32 railroad-highway crossing.

33 (b) Not less than 120 days if that person is convicted of a
34 violation of subdivision (a) of Section 2800, or Section 21462,
35 22451, or 22452, or subdivision (c) or (d) of Section 22526,
36 involving a commercial motor vehicle, and that violation occurred
37 at a railroad-highway crossing, during any three-year period of a
38 separate, prior offense of a railroad-highway grade crossing
39 violation, that resulted in a conviction.

(c) Not less than one year if that person is convicted of a violation of subdivision (a) of Section 2800, or Section 21462, 22451, or 22452, or subdivision (c) or (d) of Section 22526, involving a commercial motor vehicle, and that violation occurred at a railroad-highway crossing, at a railroad-highway grade crossing, during any three-year period of two or more prior offenses of a railroad-highway grade crossing violation, that resulted in convictions.

~~SEC. 9.~~

SEC. 11. Section 22526 of the Vehicle Code is amended to read:

22526. (a) Notwithstanding any official traffic control signal indication to proceed, a driver of a vehicle shall not enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(b) A driver of a vehicle which is making a turn at an intersection who is facing a steady circular yellow or yellow arrow signal shall not enter the intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(c) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(d) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle driven and any railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(e) A local authority may post appropriate signs at the entrance to intersections indicating the prohibition in subdivisions (a), (b), and (c).

(f) A violation of this section is not a violation of a law relating to the safe operation of vehicles and is the following:

(1) A stopping violation when a notice to appear has been issued by a peace officer described in Section 830.1, 830.2, or 830.33 of the Penal Code.

(2) A parking violation when a notice of parking violation is issued by a person, other than a peace officer described in paragraph (1), who is authorized to enforce parking statutes and regulations.

(g) This section shall be known and may be cited as the Anti-Gridlock Act of 1987.

~~SEC. 10.~~

SEC. 12. Section 41501 of the Vehicle Code is amended to read:

41501. (a) The court may order a continuance of a proceeding against a person, who receives a notice to appear in court for a violation of a statute relating to the safe operation of a vehicle, in consideration for attendance at a licensed school for traffic violators, a licensed driving school, or any other court-approved program of driving instruction, and, after that attendance and pursuant to Section 1803.5 or 42005, the court may issue a traffic violator school conviction under the following conditions:

(1) If the offense is alleged to have been committed within 12 months of another offense that was issued a traffic violator school conviction under this section, the court may order the continuance and, after the attendance, issue a traffic violator school conviction. The court may order attendance at a licensed school for traffic violators that offers a program of at least 12 hours of instruction.

(2) If the offense is not alleged to have occurred within 18 months of another offense that was issued a traffic violator school conviction under this section, the court may order the continuance and, after the attendance, issue a traffic violator school conviction if the attendance is at any of the types of schools or programs that the court directed pursuant to Section 42005 at the time of ordering the continuance.

(b) Subdivision (a) does not apply to a person who receives a notice to appear as to, or is otherwise charged with, a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810.

~~SEC. 11.~~

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O